

## § 1400.102

company, corporation, or other similar entity has more than one class of stock or other unit of ownership, the percentage share of the limited partnership, limited liability partnership, limited liability company, corporation, or other similar entity owned by an individual or entity shall be determined by the Deputy Administrator on the basis of market quotations. If market quotations are lacking or are too scarce to be recognized, such percentage share shall be determined by the Deputy Administrator on the basis of all relevant factors affecting the fair market value of such stock or other unit of ownership, including the various rights and privileges that are attributed to each such class.

### § 1400.102 Joint operations.

Members of joint operations may be separately treated as a person in accordance with the requirements of this part. However, members of a joint operation may request to be jointly treated as one person for the purposes of this part.

### § 1400.103 Trusts.

(a) A trust shall be considered to be a person separate from the individual income beneficiaries of the trust except that a trust that has a sole income beneficiary shall not be considered to be a separate person from such income beneficiary.

(b) Where two or more irrevocable trusts have common income beneficiaries (including a spouse and minor children) with more than a 50 percent interest, all such trusts shall be considered to be one person.

(c) A revocable trust and the grantor of such revocable trust shall be considered to be one person.

### § 1400.104 Estates.

If the deceased individual had lived and would have been considered to be one person with respect to an heir, the estate shall also be considered to be one person with such heir.

### § 1400.105 Husband and wife.

(a) With respect to any married couple, the husband and wife shall be considered to be one person except that a husband and wife, who:

## 7 CFR Ch. XIV (1-1-06 Edition)

(1) Prior to their marriage were separately engaged in unrelated farming operations, will be determined to be separate persons with respect to such farming operations so long as such operations remain separate and distinct from any farming operation conducted by the other spouse; or

(2) Except as provided in paragraph (b), do not hold, directly or indirectly, a substantial beneficial interest in more than one entity (including themselves) engaged in farm operations that also receive payments as a separate person from either spouse, the spouses may be considered as separate persons if each spouse otherwise meets the requirements under this part to be considered a separate person and is otherwise eligible to receive payment.

(b) With respect to any interest in an estate, for 2 program years after the program year in which the individual died, a husband and wife shall not be considered as having an interest in an entity to the extent resulting from such interest in an estate for purposes of determining persons.

### § 1400.106 Minor children.

(a) Except as provided in paragraph (b) of this section, a minor, including a minor who is the beneficiary of a trust or who is an heir of an estate, and the parent or any court-appointed person such as a guardian or conservator who is responsible for the minor shall be considered to be one person.

(b) A minor may be considered to be a separate person from the minor's parent or any court appointed person such as a guardian or conservator who is responsible for the minor, if the minor is a producer on a farm and the minor's parent or any court appointed person such as guardian or conservator who is responsible for the minor does not have any interest in the farm on which the minor is a producer or in any production from such farm. In addition the minor must:

(1) Have established and maintain a separate household from the minor's parents or any court-appointed person such as a guardian or conservator who is responsible for the minor and such

minor personally carries out the farming activities with respect to the minor's farming operation for which there is a separate accounting; or

(2) Not live in the same household as such minor's parent and:

(i) Be represented by a court-appointed guardian or conservator who is responsible for the minor; and

(ii) Have ownership of the farm vested in the minor.

(c) A person shall be considered to be a minor until the age 18 is reached. Court proceedings conferring majority on a person under 18 years of age will not change such person's status as a minor.

**§ 1400.107 States, political subdivisions, and agencies thereof.**

A State, political subdivision and agencies thereof shall be considered to be one person.

**§ 1400.108 Charitable organizations.**

A charitable organization, including a club, society, fraternal or religious organization, shall be considered to be a separate person to the extent that such an entity is engaged in the production of crops as a separate person, except where the land or the proceeds from the farming operation may transfer to an entity that exercises control or authority over such organization.

**§ 1400.109 Changes in farming operations.**

Any change in a farming operation that would increase the number of persons to which the provisions of this part apply must be bona fide and substantive. If bona fide, the following shall be considered to be substantive changes in the farming operation:

(a) The addition of a family member to a farming operation in accordance with § 1400.208, except that such an addition will not affect the status of any other individual or entity that is added to the farming operation;

(b) With respect to a landowner only, a change from a cash rent to a share rent;

(c) An increase through the acquisition of cropland not previously involved in the farming operation of approximately 20 percent or more in the total cropland involved in the farming

operation, if such cropland has planting history of an amount at least normal for the area;

(d) A change in ownership by sale or gift of a significant amount of equipment from an individual or entity who previously has been engaged in a farming operation to an individual or entity who has not been involved in such operation. The sale or gift of equipment will be considered to be bona fide and substantive only if the transferred amount of such equipment is commensurate with the new individual's or entity's share of the farming operation;

(e) A change in ownership by sale or gift of a significant amount of land from an individual or entity who previously has been engaged in a farming operation to an individual or entity who has not been involved in such operation. The sale or gift of land will be considered to be substantive only if the transferred amount of such land is commensurate with the new individual's or entity's share of the farming operation.

**Subpart C—Actively Engaged in Farming Determinations**

**§ 1400.201 General provisions for determining whether an individual or entity is actively engaged in farming.**

(a) To be considered a person who is eligible to receive payments with respect to a particular farming operation, a person must be an individual or entity actively engaged in farming with respect to such operation.

(b) Actively engaged in farming means, except as otherwise provided in this part, that the individual or entity, independently makes a significant contribution to a farming operation, of:

(1) Capital, equipment, or land, or a combination of capital, equipment, or land; and

(2) Active personal labor or active personal management, or a combination of active personal labor and active personal management.

(c) In determining if the individual or entity is actively contributing a significant amount of active personal labor or active personal management the following factors shall be taken into consideration: